

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE ATTORNEY GENERAL, A POLITICAL SUBDIVISION, OR A LAW ENFORCEMENT AGENCY FROM MAKING AN AGREEMENT WITH ANY FEDERAL AGENCY PROVIDING FOR THE ENFORCEMENT OF OR OTHERWISE ENFORCING FEDERAL IMMIGRATION LAWS; AND AMENDING SECTIONS 7-1-111, 7-1-2103, AND 7-1-4123, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-1-111, MCA, is amended to read:

**"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy.

(15) any power to make an agreement for the enforcement of or otherwise enforce federal immigration laws in any manner contrary to the provisions of [section 7]."

**Section 2.** Section 7-1-2103, MCA, is amended to read:

**"7-1-2103. County powers. (1)** A county has power to:

~~(1)~~(a) sue and be sued;

~~(2)~~(b) purchase and hold lands within its limits;

~~(3)~~(c) make contracts and purchase and hold personal property that may be necessary to the exercise of its powers;

~~(4)~~(d) make orders for the disposition or use of its property that the interests of its inhabitants require;

~~(5)~~(e) subject to 15-10-420, levy and collect taxes for public or governmental purposes, as described in 7-6-2527, under its exclusive jurisdiction unless prohibited by law.

(2) This section does not imply authority for a county with general powers to make an agreement for the enforcement of or otherwise enforce federal immigration laws in any manner contrary to the provisions of [section 7]."

**Section 3.** Section 7-1-4123, MCA, is amended to read:

**"7-1-4123. Legislative powers.** (1) A municipality with general powers has the legislative power, subject

to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

~~(1)~~(a) preserve peace and order and secure freedom from dangerous or noxious activities;

~~(2)~~(b) secure and promote the general public health and welfare;

~~(3)~~(c) provide any service or perform any function authorized or required by state law;

~~(4)~~(d) exercise any power granted by state law;

~~(5)~~(e) subject to 15-10-420, levy any tax authorized by state law for public or governmental purposes as described in 7-6-2527;

~~(6)~~(f) appropriate public funds;

~~(7)~~(g) impose a special assessment reasonably related to the cost of any special service or special benefit provided by the municipality or impose a fee for the provision of a service;

~~(8)~~(h) grant franchises; and

~~(9)~~(i) provide for its own organization and the management of its affairs.

(2) This section does not imply authority for a municipality with general powers to make an agreement for the enforcement of or otherwise enforce federal immigration laws in any manner contrary to the provisions of [section 7]."

**NEW SECTION. Section 4. Department of public safety not to enforce federal immigration laws.**

A department of public safety may not make an agreement for the enforcement of or otherwise enforce federal immigration laws in any manner contrary to the provisions of [section 7].

**NEW SECTION. Section 5. Sheriff's office not to enforce federal immigration laws.** A sheriff's office

may not make an agreement for the enforcement of or otherwise enforce federal immigration laws in a manner contrary to the provisions of [section 7].

**NEW SECTION. Section 6. Police department not to enforce federal immigration laws.** A police

department of a city or town may not make an agreement for the enforcement of or otherwise enforce federal immigration laws in any manner contrary to the provisions of [section 7].

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2       **NEW SECTION. Section 7. Attorney general, political subdivision, or law enforcement agency**  
3 **not to agree to enforce federal immigration laws -- definitions.** (1) The attorney general, a political  
4 subdivision, or a law enforcement agency may not:

5       (a) make a memorandum of understanding or other agreement pursuant to 8 U.S.C. 1357(g) or any other  
6 federal statute or federal regulation providing for the enforcement of federal immigration laws by the attorney  
7 general, a political subdivision, or a law enforcement agency; or

8       (b) otherwise enforce, if discretion to enforce is granted by the federal government, federal immigration  
9 laws.

10       (2) As used in this section, the following definitions apply:

11       (a) "Law enforcement agency" means:

12       (i) the Montana highway patrol;

13       (ii) a sheriff's office;

14       (iii) a police department of a city of any class or of a town;

15       (iv) a department of public safety authorized by 7-32-101;

16       (v) a constable; or

17       (vi) a marshal.

18       (b) "Political subdivision" means a county, a city of any class, a unit of a consolidated local government,  
19 or a town.

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21       **NEW SECTION. Section 8. Codification instruction.** (1) [Section 4] is intended to be codified as an  
22 integral part of Title 7, chapter 32, part 1, and the provisions of Title 7, chapter 32, part 1, apply to [section 4].

23       (2) [Section 5] is intended to be codified as an integral part of Title 7, chapter 32, part 21, and the  
24 provisions of Title 7, chapter 32, part 21, apply to [section 5].

25       (3) [Section 6] is intended to be codified as an integral part of Title 7, chapter 32, part 41, and the  
26 provisions of Title 7, chapter 32, part 41, apply to [section 6].

27       (4) [Section 7] is intended to be codified as an integral part of Title 44, and the provisions of Title 44 apply  
28 to [section 7].

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